



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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HOUSE BILL NO. 289

AS ENACTED

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THURSDAY, APRIL 1, 2010

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adair

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AN ACT relating to retirement.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔ Section 1. KRS 6.525 is amended to read as follows:

2        The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions  
3        identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370 to  
4        21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, 21.540, and 61.552 for  
5        the Judicial Retirement Plan, except that:

6        (1) Five (5) years of service as a legislator will be sufficient for vesting; and

7        (2) (a) A member of the Legislators' Retirement Plan may combine his service credit  
8               with his service credit in the Teachers' Retirement System, Kentucky  
9               Employees Retirement System, County Employees Retirement System, and  
10              State Police Retirement System at the time of his retirement, according to the  
11              procedure of KRS 61.680(2)(a), except that the salary used to determine final  
12              compensation shall be based on the creditable compensation in KRS  
13              61.510(13) for service while a member of the General Assembly whether or  
14              not a member of the Legislators' Retirement Plan.

15        (b) For members contributing on or after June 20, 2005, upon retirement, a  
16               member's accounts under the Legislators' Retirement Plan, State Police  
17               Retirement System, Kentucky Employees Retirement System, County  
18               Employees Retirement System, and Teachers' Retirement System shall be  
19               consolidated for the purpose of determining eligibility and amount of benefits  
20               as provided in KRS 61.680(2)(a) and in the same manner as for the other  
21               retirement systems using the highest salary regardless of the system in which  
22               it was earned. For purposes of this paragraph, "retirement" means the month  
23               in which the member elects to begin receiving benefits or benefits become  
24               payable due to the member's death.

25        (c) A member who has an account in the Legislators' Retirement Plan and the

1           Judicial Retirement Plan may combine his service in both plans for purposes  
2           of determining eligibility, the amount of benefits and final compensation.

3           (d) A member of the Legislators' Retirement Plan may retire at the completion of  
4           twenty-seven (27) or more years of combined service credit, so long as at least  
5           fifteen (15) years of such credit were earned after January 1, 1960, and there  
6           shall be no reduction in the retirement allowance because of retirement before  
7           the age of sixty-five (65).

8           (e) For the purposes of this section, any reference in the KRS sections listed  
9           above to the Judicial Retirement Plan shall also be read as a reference to the  
10          Legislators' Retirement Plan, and any reference to the Legislators' Retirement  
11          Plan shall also be read as a reference to the Judicial Retirement Plan.

12       (3) Any other statute to the contrary notwithstanding, a member of any state-  
13       administered retirement system who has ceased to qualify for membership but  
14       subsequently returns to a qualified status, shall, for the purposes of determining the  
15       date of entry into the state-administered retirement system for the subsequent period  
16       or periods of service, be deemed to have never left the retirement system.

17       ➔Section 2. KRS 16.505 is amended to read as follows:

18       As used in KRS 16.505 to 16.652, unless the context otherwise requires:

19       (1) "System" means the State Police Retirement System created by KRS 16.505 to  
20       16.652;

21       (2) "Board" means the board of trustees of the Kentucky Retirement Systems;

22       (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its  
23       successor;

24       (4) "Current service" means the number of years and completed months of employment  
25       as an employee subsequent to July 1, 1958, for which creditable compensation was  
26       paid by the employer and employee contributions deducted except as otherwise  
27       provided;

- 1 (5) "Prior service" means the number of years and completed months of employment as  
2 an employee prior to July 1, 1958, for which creditable compensation was paid to  
3 the employee by the Commonwealth. Twelve (12) months of current service in the  
4 system are required to validate prior service;
- 5 (6) "Service" means the total of current service and prior service;
- 6 (7) "Accumulated contributions" at any time means the sum of all amounts deducted  
7 from the compensation of a member and credited to his individual account in the  
8 member's contribution account, including employee contributions picked up after  
9 August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such  
10 amounts as provided in KRS 16.505 to 16.652, and any other amounts the member  
11 shall have contributed, including interest credited. For members who begin  
12 participating on or after September 1, 2008, "accumulated contributions" shall not  
13 include employee contributions that are deposited into accounts established  
14 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,  
15 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- 16 (8) "Creditable compensation" means all salary and wages, including payments for  
17 compensatory time, paid to the employee as a result of services performed for the  
18 employer or for time during which the member is on paid leave, which are  
19 includable on the member's federal form W-2 wage and tax statement under the  
20 heading "wages, tips, other compensation," including employee contributions  
21 picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus,  
22 severance pay, or employer-provided payment for purchase of service credit shall be  
23 included as creditable compensation but shall be averaged over the employee's total  
24 service with the system in which it is recorded if it is equal to or greater than one  
25 thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum  
26 payments for accrued vacation leave, and other items determined by the board shall  
27 be excluded. Creditable compensation shall also include amounts which are not

1 includable in the member's gross income by virtue of the member having taken a  
 2 voluntary salary reduction provided for under applicable provisions of the Internal  
 3 Revenue Code. Creditable compensation shall also include elective amounts for  
 4 qualified transportation fringes paid or made available on or after January 1, 2001,  
 5 for calendar years on or after January 1, 2001, that are not includable in the gross  
 6 income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who  
 7 begin participating on or after September 1, 2008, creditable compensation shall not  
 8 include payments for compensatory time;

9 (9) "Final compensation" means:

10 (a) For a member who begins participating before September 1, 2008, the  
 11 creditable compensation of a member during the three (3) fiscal years he was  
 12 paid at the highest average monthly rate divided by the number of months of  
 13 service credit during the three (3) year period, multiplied by twelve (12); the  
 14 three (3) years may be fractional and need not be consecutive. If the number of  
 15 months of service credit during the three (3) year period is less than twenty-  
 16 four (24), one (1) or more additional fiscal years shall be used; or

17 (b) For a member who begins participating on or after September 1, 2008, the  
 18 creditable compensation of the member during the three (3) complete fiscal  
 19 years he or she was paid at the highest average monthly rate divided by three  
 20 (3). Each fiscal year used to determine final compensation must contain  
 21 twelve (12) months of service credit;

22 (10) "Final rate of pay" means the actual rate upon which earnings of a member were  
 23 calculated during the twelve (12) month period immediately preceding the  
 24 member's effective retirement date, including employee contributions picked up  
 25 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the  
 26 system by the employer and the following equivalents shall be used to convert the  
 27 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour

1 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-  
 2 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12)  
 3 months, or one (1) year;

4 (11) "Retired member" means any former member receiving a retirement allowance or  
 5 any former member who has filed the necessary documents for retirement benefits  
 6 and is no longer contributing to the retirement system;

7 (12) "Retirement allowance" means the retirement payments to which a retired member  
 8 is entitled;

9 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the  
 10 basis of actuarial tables adopted by the board. In cases of disability retirement, the  
 11 options authorized by KRS 61.635 shall be computed by adding ten (10) years to  
 12 the age of the member, unless the member has chosen the Social Security  
 13 adjustment option as provided for in KRS 61.635(8), in which case the member's  
 14 actual age shall be used. No disability retirement option shall be less than the same  
 15 option computed under early retirement;

16 (14) "Authorized leave of absence" means any time during which a person is absent from  
 17 employment but retained in the status of an employee in accordance with the  
 18 personnel policy of the Department of Kentucky State Police;

19 (15) "Normal retirement date" means:

20 (a) For a member who begins participating before September 1, 2008, the first  
 21 day of the month following a member's fifty-fifth birthday, except that for  
 22 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,  
 23 1959; or

24 (b) For a member who begins participating on or after September 1, 2008, the  
 25 first day of the month following a member's sixtieth birthday;

26 (16) "Disability retirement date" means the first day of the month following the last day  
 27 of paid employment;

- 1 (17) "Dependent child" means a child in the womb and a natural or legally adopted child  
 2 of the member who has neither attained age eighteen (18) nor married or who is an  
 3 unmarried full-time student who has not attained age twenty-two (22);
- 4 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member  
 5 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 6 (19) "Act in line of duty" means an act occurring or a thing done, which, as determined  
 7 by the board, was required in the performance of the duties specified in KRS  
 8 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of  
 9 duty" shall mean an act occurring which was required in the performance of the  
 10 principal duties of the position as defined by the job description;
- 11 (20) "Early retirement date" means:
- 12 (a) For a member who begins participating before September 1, 2008, the  
 13 retirement date declared by a member who is not less than fifty (50) years of  
 14 age and has fifteen (15) years of service; or
- 15 (b) For a member who begins participating on or after September 1, 2008, the  
 16 retirement date declared by a member who is not less than fifty (50) years of  
 17 age and has fifteen (15) years of service credited under KRS 16.543(1),  
 18 61.543(1), or 78.615(1) or another state-administered retirement system;
- 19 (21) "Member" means any officer included in the membership of the system as provided  
 20 under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 21 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS  
 22 16.010;
- 23 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which  
 24 results in an employee's total incapacity to continue as an employee in a hazardous  
 25 position, but the employee is not necessarily deemed to be totally and permanently  
 26 disabled to engage in other occupations for remuneration or profit;
- 27 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,

1 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
 2 pay. The rate shall be certified by the employer;

3 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
 4 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
 5 in the event of the member's death. As used in KRS 61.702, "beneficiary" does not  
 6 mean an estate, trust, or trustee;

7 (26) "Recipient" means the retired member, the person or persons designated as  
 8 beneficiary by the member and drawing a retirement allowance as a result of the  
 9 member's death, or a dependent child drawing a retirement allowance. An alternate  
 10 payee of a qualified domestic relations order shall not be considered a recipient,  
 11 except~~[only]~~ for purposes of KRS 61.623~~[61.691]~~;

12 (27) "Person" means a natural person;

13 (28) "Retirement office" means the Kentucky Retirement Systems office building in  
 14 Frankfort;

15 (29) "Delayed contribution payment" means an amount paid by an employee for  
 16 purchase of current service. The amount shall be determined using the same formula  
 17 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
 18 delayed contribution payment shall be deposited to the member's contribution  
 19 account and considered as accumulated contributions of the individual member;

20 (30) "Last day of paid employment" means the last date employer and employee  
 21 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
 22 78.615 to the retirement office in order for the employee to receive current service  
 23 credit for the month. Last day of paid employment does not mean a date the  
 24 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
 25 that date occurs twenty-four (24) or more months after previous contributions;

26 (31) "Objective medical evidence" means reports of examinations or treatments; medical  
 27 signs which are anatomical, physiological, or psychological abnormalities that can



1 be observed; psychiatric signs which are medically demonstrable phenomena  
 2 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
 3 or contact with reality; or laboratory findings which are anatomical, physiological,  
 4 or psychological phenomena that can be shown by medically acceptable laboratory  
 5 diagnostic techniques, including but not limited to chemical tests,  
 6 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

7 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
 8 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
 9 limitation year used to determine contribution and benefit limits established by 26  
 10 U.S.C. sec. 415;

11 (33) "Participating" means an employee is currently earning service credit in the system  
 12 as provided in KRS 16.543;

13 (34) "Month" means a calendar month;~~[-and]~~

14 (35) "Membership date" means the date upon which the member began participating in  
 15 the system as provided by KRS 16.543;

16 (36) "Participant" means a member, as defined by subsection (21) of this section, or a  
 17 retired member, as defined by subsection (11) of this section;

18 (37) "Qualified domestic relations order" means any judgment, decree, or order,  
 19 including approval of a property settlement agreement, that:

20 (a) Is issued by a court or administrative agency; and

21 (b) Relates to the provision of child support, alimony payments, or marital  
 22 property rights to an alternate payee; and

23 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
 24 participant, who is designated to be paid retirement benefits in a qualified  
 25 domestic relations order.

26 ➔Section 3. KRS 16.645 is amended to read as follows:

27 The following subjects shall be administered in the same manner subject to the same

1 limitations and requirements as provided for the Kentucky Employees Retirement System  
2 as follows:

- 3 (1) Cessation of membership, as provided for by KRS 61.535;
- 4 (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- 5 (3) Actuarial bases, as provided for by KRS 61.670;
- 6 (4) Duties of the employer, as provided for by KRS 61.675;
- 7 (5) Exemption of benefits of the system for taxation and qualified domestic relations  
8 orders, as provided for by KRS 61.690;
- 9 (6) Retirement allowance increase, as provided for by KRS 61.691;
- 10 (7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
- 11 (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS  
12 61.542;
- 13 (9) Year of service credit, as provided for by KRS 61.545;
- 14 (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- 15 (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- 16 (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- 17 (13) Member's account, confidential, as provided for by KRS 61.661;
- 18 (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- 19 (15) Correction of errors in records, as provided for by KRS 61.685;
- 20 (16) Maximum disability benefit, as provided for by KRS 61.607;
- 21 (17) Retirement application procedure, effective retirement date, as provided for by KRS  
22 61.590;
- 23 (18) Employer contributions, as provided for by KRS 61.565;
- 24 (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and  
25 delayed contribution and installment payments, as provided for by KRS 61.552;
- 26 (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
- 27 (21) Refund of contributions, conditions, as provided by KRS 61.625;

- 1 (22) Hospital and medical insurance plan, as provided by KRS 61.702;
- 2 (23) Death benefit, as provided by KRS 61.705;
- 3 (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS
- 4 61.615;
- 5 (25) Service credit, Armed Forces, as provided by KRS 61.555;
- 6 (26) Reinstated employee, contributions on creditable compensation, as provided for by
- 7 KRS 61.569;
- 8 (27) Statement to be made under oath, good faith reliance, as provided for in KRS
- 9 61.699;
- 10 (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- 11 (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- 12 (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- 13 (31) Payment of small amounts upon death of member, retiree, or recipient without
- 14 formal administration of the estate as provided in KRS 61.703;
- 15 (32) Suspension of retirement payments on reemployment, reinstatement, recomputation
- 16 of allowance, waiver of provisions in certain instances, reemployment in a different
- 17 position, as provided for by KRS 61.637; and
- 18 (33) Medical examination and financial review after disability retirement, staff review,
- 19 as provided in KRS 61.610.

20 ➔Section 4. KRS 21.540 is amended to read as follows:

- 21 (1) Except as provided in KRS 21.550 and 21.560, the board of trustees of the Judicial
- 22 Form Retirement System shall be charged with the administration of that system
- 23 and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including
- 24 the power to promulgate all reasonable administrative regulations, pass upon
- 25 questions of eligibility and disability, make employments for services, and to
- 26 contract for fiduciary liability insurance, and for investment counseling, actuarial,
- 27 auditing, and other professional services as required without the limitations of KRS

45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

(2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.

(b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

1. Solely by the participant;
2. Solely by the alternate payee; or
3. Equally shared by the participant and alternate payee.

(c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:

1. Is issued by a court or administrative agency; and
2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.

→ Section 5. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- 1 (1) "System" means the Kentucky Employees Retirement System created by KRS  
2 61.510 to 61.705;
- 3 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 4 (3) "Department" means any state department or board or agency participating in the  
5 system in accordance with appropriate executive order, as provided in KRS 61.520.  
6 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
7 General Assembly and any other body, entity, or instrumentality designated by  
8 executive order by the Governor, shall be deemed to be a department,  
9 notwithstanding whether said body, entity, or instrumentality is an integral part of  
10 state government;
- 11 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 12 (5) "Employee" means the members, officers, and employees of the General Assembly  
13 and every regular full-time, appointed or elective officer or employee of a  
14 participating department, including the Department of Military Affairs. The term  
15 does not include persons engaged as independent contractors, seasonal, emergency,  
16 temporary, interim, and part-time workers. In case of any doubt, the board shall  
17 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 18 (6) "Employer" means a department or any authority of a department having the power  
19 to appoint or select an employee in the department, including the Senate and the  
20 House of Representatives, or any other entity, the employees of which are eligible  
21 for membership in the system pursuant to KRS 61.525;
- 22 (7) "State" means the Commonwealth of Kentucky;
- 23 (8) "Member" means any employee who is included in the membership of the system or  
24 any former employee whose membership has not been terminated under KRS  
25 61.535;
- 26 (9) "Service" means the total of current service and prior service as defined in this  
27 section;

1 (10) "Current service" means the number of years and months of employment as an  
2 employee, on and after July 1, 1956, except that for members, officers, and  
3 employees of the General Assembly this date shall be January 1, 1960, for which  
4 creditable compensation is paid and employee contributions deducted, except as  
5 otherwise provided, and each member, officer, and employee of the General  
6 Assembly shall be credited with a month of current service for each month he  
7 serves in the position;

8 (11) "Prior service" means the number of years and completed months, expressed as a  
9 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
10 creditable compensation was paid; except that for members, officers, and employees  
11 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
12 credited with one (1) month of prior service only in those months he received  
13 compensation for at least one hundred (100) hours of work; provided, however, that  
14 each member, officer, and employee of the General Assembly shall be credited with  
15 a month of prior service for each month he served in the position prior to January 1,  
16 1960. Twelve (12) months of current service in the system are required to validate  
17 prior service;

18 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
19 from the compensation of a member and credited to his individual account in the  
20 members' contribution account, including employee contributions picked up after  
21 August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such  
22 amounts and any other amounts the member shall have contributed thereto,  
23 including interest credited thereon. For members who begin participating on or after  
24 September 1, 2008, "accumulated contributions" shall not include employee  
25 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.  
26 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as  
27 prescribed by KRS 61.702(2)(b);

1 (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are  
 2 reported for income tax purposes, and fees, including payments for compensatory  
 3 time, paid to the employee as a result of services performed for the employer or for  
 4 time during which the member is on paid leave, which are includable on the  
 5 member's federal form W-2 wage and tax statement under the heading "wages, tips,  
 6 other compensation," including employee contributions picked up after August 1,  
 7 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall  
 8 mean all amounts which are includable on the member's federal form W-2 wage and  
 9 tax statement under the heading "wages, tips, other compensation," including  
 10 employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4)  
 11 or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for  
 12 purchase of service credit shall be included as creditable compensation but shall be  
 13 averaged over the employee's total service with the system in which it is recorded if  
 14 it is equal to or greater than one thousand dollars (\$1,000). In cases where  
 15 compensation includes maintenance and other perquisites, the board shall fix the  
 16 value of that part of the compensation not paid in money. Living allowances,  
 17 expense reimbursements, lump-sum payments for accrued vacation leave, and other  
 18 items determined by the board shall be excluded. Creditable compensation shall  
 19 also include amounts which are not includable in the member's gross income by  
 20 virtue of the member having taken a voluntary salary reduction provided for under  
 21 applicable provisions of the Internal Revenue Code. Creditable compensation shall  
 22 also include elective amounts for qualified transportation fringes paid or made  
 23 available on or after January 1, 2001, for calendar years on or after January 1, 2001,  
 24 that are not includable in the gross income of the employee by reason of 26 U.S.C.  
 25 sec. 132(f)(4). For employees who begin participating on or after September 1,  
 26 2008, creditable compensation shall not include payments for compensatory time;

27 (14) "Final compensation" of a member means:

- 1 (a) For a member who begins participating before September 1, 2008, who is not  
2 employed in a hazardous position, as provided in KRS 61.592, the creditable  
3 compensation of the member during the five (5) fiscal years he was paid at the  
4 highest average monthly rate divided by the number of months of service  
5 credit during that five (5) year period multiplied by twelve (12). The five (5)  
6 years may be fractional and need not be consecutive. If the number of months  
7 of service credit during the five (5) year period is less than forty-eight (48),  
8 one (1) or more additional fiscal years shall be used;
- 9 (b) For a member who is not employed in a hazardous position, as provided in  
10 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
11 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
12 years and whose age and years of service total at least seventy-five (75), final  
13 compensation means the creditable compensation of the member during the  
14 three (3) fiscal years the member was paid at the highest average monthly rate  
15 divided by the number of months of service credit during that three (3) years  
16 period multiplied by twelve (12). The three (3) years may be fractional and  
17 need not be consecutive. If the number of months of service credit during the  
18 three (3) year period is less than twenty-four (24), one (1) or more additional  
19 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
20 funding for this paragraph shall be provided from existing funds of the  
21 retirement allowance;
- 22 (c) For a member who begins participating before September 1, 2008, who is  
23 employed in a hazardous position, as provided in KRS 61.592, the creditable  
24 compensation of the member during the three (3) fiscal years he was paid at  
25 the highest average monthly rate divided by the number of months of service  
26 credit during that three (3) year period multiplied by twelve (12). The three (3)  
27 years may be fractional and need not be consecutive. If the number of months



1 of service credit during the three (3) year period is less than twenty-four (24),  
 2 one (1) or more additional fiscal years shall be used;

3 (d) For a member who begins participating on or after September 1, 2008, who is  
 4 not employed in a hazardous position, as provided in KRS 61.592, the  
 5 creditable compensation of the member during the five (5) complete fiscal  
 6 years immediately preceding retirement divided by five (5). Each fiscal year  
 7 used to determine final compensation must contain twelve (12) months of  
 8 service credit; or

9 (e) For a member who begins participating on or after September 1, 2008, who is  
 10 employed in a hazardous position, as provided in KRS 61.592, the creditable  
 11 compensation of the member during the three (3) complete fiscal years he was  
 12 paid at the highest average monthly rate divided by three (3). Each fiscal year  
 13 used to determine final compensation must contain twelve (12) months of  
 14 service credit;

15 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
 16 calculated during the twelve (12) month period immediately preceding the  
 17 member's effective retirement date, including employee contributions picked up  
 18 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the  
 19 system by the employer and the following equivalents shall be used to convert the  
 20 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
 21 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour  
 22 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,  
 23 one (1) year;

24 (16) "Retirement allowance" means the retirement payments to which a member is  
 25 entitled;

26 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
 27 basis of the actuarial tables that are adopted by the board. In cases of disability

1 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
2 (10) years to the age of the member, unless the member has chosen the Social  
3 Security adjustment option as provided for in KRS 61.635(8), in which case the  
4 member's actual age shall be used. No disability retirement option shall be less than  
5 the same option computed under early retirement;

6 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
7 otherwise provided in KRS 61.510 to 61.705;

8 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
9 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
10 limitation year used to determine contribution and benefit limits as established by  
11 26 U.S.C. sec. 415;

12 (20) "Officers and employees of the General Assembly" means the occupants of those  
13 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
14 were employed by the General Assembly for at least one (1) regular legislative  
15 session prior to July 13, 2004, who elect to participate in the retirement system, and  
16 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
17 13, 2004, shall be designated as interim employees;

18 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
19 all positions that average one hundred (100) or more hours per month determined by  
20 using the number of months actually worked within a calendar or fiscal year,  
21 including all positions except:

22 (a) Seasonal positions, which although temporary in duration, are positions which  
23 coincide in duration with a particular season or seasons of the year and which  
24 may recur regularly from year to year, the period of time shall not exceed nine  
25 (9) months;

26 (b) Emergency positions which are positions which do not exceed thirty (30)  
27 working days and are nonrenewable;

- 1 (c) Temporary positions which are positions of employment with a participating  
2 department for a period of time not to exceed nine (9) months;
- 3 (d) Part-time positions which are positions which may be permanent in duration,  
4 but which require less than a calendar or fiscal year average of one hundred  
5 (100) hours of work per month, determined by using the number of months  
6 actually worked within a calendar or fiscal year, in the performance of duty;  
7 and
- 8 (e) Interim positions which are positions established for a one-time or recurring  
9 need not to exceed nine (9) months;
- 10 (22) "Delayed contribution payment" means an amount paid by an employee for  
11 purchase of current service. The amount shall be determined using the same formula  
12 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
13 delayed contribution payment shall be deposited to the member's contribution  
14 account and considered as accumulated contributions of the individual member. In  
15 determining payments under this subsection, the formula found in this subsection  
16 shall prevail over the one found in KRS 212.434;
- 17 (23) "Parted employer" means a department, portion of a department, board, or agency,  
18 such as Outwood Hospital and School, which previously participated in the system,  
19 but due to lease or other contractual arrangement is now operated by a publicly held  
20 corporation or other similar organization, and therefore is no longer participating in  
21 the system;
- 22 (24) "Retired member" means any former member receiving a retirement allowance or  
23 any former member who has filed the necessary documents for retirement benefits  
24 and is no longer contributing to the retirement system;
- 25 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
26 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
27 pay. The rate shall be certified by the employer;

- 1 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
 2 the member in accordance with KRS 61.542 or 61.705 to receive any available  
 3 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
 4 does not mean an estate, trust, or trustee;
- 5 (27) "Recipient" means the retired member or the person or persons designated as  
 6 beneficiary by the member and drawing a retirement allowance as a result of the  
 7 member's death or a dependent child drawing a retirement allowance. An alternate  
 8 payee of a qualified domestic relations order shall not be considered a recipient,  
 9 except~~[-only]~~ for purposes of KRS 61.623~~[61.691]~~;
- 10 (28) "Level-percentage-of-payroll amortization method" means a method of determining  
 11 the annual amortization payment on the unfunded actuarial accrued liability as  
 12 expressed as a percentage of payroll over a set period of years. Under this method,  
 13 the percentage of payroll shall be projected to remain constant for all years  
 14 remaining in the set period and the unfunded actuarially accrued liability shall be  
 15 projected to be fully amortized at the conclusion of the set period;
- 16 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
 17 twelve (12) months need not be consecutive. The final increment may be less than  
 18 twelve (12) months;
- 19 (30) "Person" means a natural person;
- 20 (31) "Retirement office" means the Kentucky Retirement Systems office building in  
 21 Frankfort;
- 22 (32) "Last day of paid employment" means the last date employer and employee  
 23 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
 24 78.615 to the retirement office in order for the employee to receive current service  
 25 credit for the month. Last day of paid employment does not mean a date the  
 26 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
 27 that date occurs twenty-four (24) or more months after previous contributions;

- 1 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
 2 signs which are anatomical, physiological, or psychological abnormalities that can  
 3 be observed; psychiatric signs which are medically demonstrable phenomena  
 4 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
 5 or contact with reality; or laboratory findings which are anatomical, physiological,  
 6 or psychological phenomena that can be shown by medically acceptable laboratory  
 7 diagnostic techniques, including but not limited to chemical tests,  
 8 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 9 (34) "Participating" means an employee is currently earning service credit in the system  
 10 as provided in KRS 61.543;
- 11 (35) "Month" means a calendar month;~~[- and]~~
- 12 (36) "Membership date" means the date upon which the member began participating in  
 13 the system as provided in KRS 61.543;
- 14 **(37) "Participant" means a member, as defined by subsection (8) of this section, or a**  
 15 **retired member, as defined by subsection (24) of this section;**
- 16 **(38) "Qualified domestic relations order" means any judgment, decree, or order,**  
 17 **including approval of a property settlement agreement, that:**  
 18 **(a) Is issued by a court or administrative agency; and**  
 19 **(b) Relates to the provision of child support, alimony payments, or marital**  
 20 **property rights to an alternate payee; and**
- 21 **(39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a**  
 22 **participant, who is designated to be paid retirement benefits in a qualified**  
 23 **domestic relations order.**
- 24 ➔Section 6. KRS 61.690 is amended to read as follows:
- 25 (1) **Except as otherwise provided by this section,** all retirement allowances and other  
 26 benefits accrued or accruing to any person under the provisions of KRS 61.510 to  
 27 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions

and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and shall not be assigned~~[an assignment thereof shall not be enforceable in any court]~~.

**(2) Notwithstanding the provisions of subsection (1) of this section,**~~[Except]~~

retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

**(3) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:**

**(a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p) in administering qualified domestic relations orders;**

**(b) The order meets the requirements established by the retirement system and by subsections (3) to (11) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations orders by promulgation of administrative regulations in accordance with KRS Chapter 13A; and**

**(c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (3)(b) of this subsection.**

**(4) A qualified domestic relations order shall not:**

**(a) Require the retirement system to take any action not authorized under state**

1           or federal law;

2           **(b) Require the retirement system to provide any benefit, allowance, or other**  
 3           **payment not authorized under state or federal law;**

4           **(c) Grant or be construed to grant the alternate payee any separate right, title,**  
 5           **or interest in or to any retirement benefit other than to receive payments**  
 6           **from the participant's account in accordance with the administrative**  
 7           **regulations promulgated by the retirement system and as provided by**  
 8           **subsections (3) to (11) of this section; or**

9           **(d) Grant any separate interest to any person other than the participant.**

10          **(5) Any qualified domestic relations order submitted to the retirement system shall**  
 11          **specify the dollar amount or percentage amount of the participant's benefit to be**  
 12          **paid to the alternate payee. In calculating the amount to be paid to the alternate**  
 13          **payee, the court or administrative agency that is responsible for issuing the order**  
 14          **shall follow the requirements set forth in the administrative regulations**  
 15          **promulgated by the board of trustees. Notwithstanding any other statute to the**  
 16          **contrary, the board shall not be required to honor a qualified domestic relations**  
 17          **order that does not follow the requirements set forth in the administrative**  
 18          **regulations promulgated by the board of trustees.**

19          **(6) If the qualified domestic relations order meets the requirements established by**  
 20          **the system and by subsections (3) to (11) of this section, payments to the alternate**  
 21          **payee shall begin under the following conditions:**

22          **(a) If the participant is retired and is receiving a monthly benefit, the month**  
 23          **following the date the retirement system receives a qualified domestic**  
 24          **relations order that complies with the administrative regulations**  
 25          **promulgated by the retirement system and subsections (3) to (11) of this**  
 26          **section; or**

27          **(b) If the participant is not retired, the month of the participant's effective**

retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of contributions as provided by KRS 61.625.

(7) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:

(a) The death of the participant;

(b) The death of the alternate payee; or

(c) The termination of the participant's benefits under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

(8) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.

(9) The cost of living adjustment provided to the participant pursuant to KRS 61.691 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:

(a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

(b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:

1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or



1        2. The alternate payee shall receive no cost of living adjustment.

2        If the order does not specify the division of the cost of living adjustment as  
 3        required by this paragraph, then no cost of living adjustment shall be  
 4        payable to the alternate payee. If no cost of living adjustment is provided to  
 5        the alternate payee, then the participant shall receive the full cost of living  
 6        adjustment he or she would have received if the order had not been applied  
 7        to the participant's account.

8        (10) Except in cases involving child support payments, the retirement system may  
 9        charge reasonable and necessary fees and expenses to the recipient and the  
 10       alternate payee of a qualified domestic relations order for the administration of  
 11       the qualified domestic relations order by the retirement system. All fees and  
 12       expenses shall be established by administrative regulations promulgated by the  
 13       board of trustees of the retirement system. The qualified domestic relations order  
 14       shall specify whether the fees and expenses provided by this subsection shall be  
 15       paid:

16       (a) Solely by the participant;

17       (b) Solely by the alternate payee; or

18       (c) Equally shared by the participant and alternate payee.

19       (11) The retirement system shall honor a qualified domestic relations order issued  
 20       prior to the effective date of this Act if:

21       (a) The order was on file and approved by the retirement system prior to the  
 22       effective date of this Act. All benefits, including cost of living adjustments  
 23       payable to the alternate payee, for orders that meet the requirements of this  
 24       paragraph shall not be eliminated or reduced as a result of the provisions of  
 25       this Act; or

26       (b) The order or an amended version of the order meets the requirements  
 27       established by this section and the administrative regulations promulgated

by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

~~[(2) Child support orders for current, owed, or to be owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(g).]~~

➔Section 7. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he

1 qualifies as a regular full-time officer. The term shall not include persons engaged  
2 as independent contractors, seasonal, emergency, temporary, and part-time workers.  
3 In case of any doubt, the board shall determine if a person is an employee within the  
4 meaning of KRS 78.510 to 78.852;

5 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected  
6 officials of a county, or any authority of the county having the power to appoint or  
7 elect an employee to office or employment in the county;

8 (8) "Member" means any employee who is included in the membership of the system or  
9 any former employee whose membership has not been terminated under KRS  
10 61.535;

11 (9) "Service" means the total of current service and prior service as defined in this  
12 section;

13 (10) "Current service" means the number of years and months of employment as an  
14 employee, on and after July 1, 1958, for which creditable compensation is paid and  
15 employee contributions deducted, except as otherwise provided;

16 (11) "Prior service" means the number of years and completed months, expressed as a  
17 fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
18 creditable compensation was paid. An employee shall be credited with one (1)  
19 month of prior service only in those months he received compensation for at least  
20 one hundred (100) hours of work. Twelve (12) months of current service in the  
21 system shall be required to validate prior service;

22 (12) "Accumulated contributions" means the sum of all amounts deducted from the  
23 compensation of a member and credited to his individual account in the members'  
24 contribution account, including employee contributions picked up after August 1,  
25 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts,  
26 and any other amounts the member shall have contributed thereto, including interest  
27 credited thereon. For members who begin participating on or after September 1,

1       2008, "accumulated contributions" shall not include employee contributions that are  
2       deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
3       funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
4       61.702(2)(b);

5       (13) "Creditable compensation" means all salary, wages, and fees, including payments  
6       for compensatory time, paid to the employee as a result of services performed for  
7       the employer or for time during which the member is on paid leave, which are  
8       includable on the member's federal form W-2 wage and tax statement under the  
9       heading "wages, tips, other compensation", including employee contributions  
10      picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,  
11      severance pay, or employer-provided payment for purchase of service credit shall be  
12      included as creditable compensation but shall be averaged over the employee's  
13      service with the system in which it is recorded if it is equal to or greater than one  
14      thousand dollars (\$1,000). If compensation includes maintenance and other  
15      perquisites, the board shall fix the value of that part of the compensation not paid in  
16      money. Living allowances, expense reimbursements, lump-sum payments for  
17      accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other  
18      items determined by the board shall be excluded. Creditable compensation shall  
19      also include amounts that are not includable in the member's gross income by virtue  
20      of the member having taken a voluntary salary reduction provided for under  
21      applicable provisions of the Internal Revenue Code. Creditable compensation shall  
22      also include elective amounts for qualified transportation fringes paid or made  
23      available on or after January 1, 2001, for calendar years on or after January 1, 2001,  
24      that are not includable in the gross income of the employee by reason of 26 U.S.C.  
25      sec. 132(f)(4). For employees who begin participating on or after September 1,  
26      2008, creditable compensation shall not include payments for compensatory time;

27      (14) "Final compensation" means:

- 1 (a) For a member who begins participating before September 1, 2008, who is not  
2 employed in a hazardous position, as provided in KRS 61.592, the creditable  
3 compensation of the member during the five (5) fiscal years he was paid at the  
4 highest average monthly rate divided by the number of months of service  
5 credit during that five (5) year period multiplied by twelve (12). The five (5)  
6 years may be fractional and need not be consecutive. If the number of months  
7 of service credit during the five (5) year period is less than forty-eight (48),  
8 one (1) or more additional fiscal years shall be used;
- 9 (b) For a member who is not employed in a hazardous position, as provided in  
10 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
11 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
12 years and whose age and years of service total at least seventy-five (75), final  
13 compensation means the creditable compensation of the member during the  
14 three (3) fiscal years the member was paid at the highest average monthly rate  
15 divided by the number of months of service credit during that three (3) year  
16 period multiplied by twelve (12). The three (3) years may be fractional and  
17 need not be consecutive. If the number of months of service credit during the  
18 three (3) year period is less than twenty-four (24), one (1) or more additional  
19 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
20 funding for this paragraph shall be provided from existing funds of the  
21 retirement allowance;
- 22 (c) For a member who begins participating before September 1, 2008, who is  
23 employed in a hazardous position, as provided in KRS 61.592, the creditable  
24 compensation of the member during the three (3) fiscal years he was paid at  
25 the highest average monthly rate divided by the number of months of service  
26 credit during that three (3) year period multiplied by twelve (12). The three (3)  
27 years may be fractional and need not be consecutive. If the number of months

1 of service credit during the three (3) year period is less than twenty-four (24),  
 2 one (1) or more additional fiscal years shall be used;

3 (d) For a member who begins participating on or after September 1, 2008, who is  
 4 not employed in a hazardous position, as provided in KRS 61.592, the  
 5 creditable compensation of the member during the five (5) complete fiscal  
 6 years immediately preceding retirement divided by five (5). Each fiscal year  
 7 used to determine final compensation must contain twelve (12) months of  
 8 service credit; or

9 (e) For a member who begins participating on or after September 1, 2008, who is  
 10 employed in a hazardous position, as provided in KRS 61.592, the creditable  
 11 compensation of the member during the three (3) complete fiscal years he was  
 12 paid at the highest average monthly rate divided by three (3). Each fiscal year  
 13 used to determine final compensation must contain twelve (12) months of  
 14 service credit;

15 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
 16 calculated during the twelve (12) month period immediately preceding the  
 17 member's effective retirement date, and shall include employee contributions picked  
 18 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to  
 19 the system by the employer and the following equivalents shall be used to convert  
 20 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
 21 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half  
 22 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve  
 23 (12) months, one (1) year;

24 (16) "Retirement allowance" means the retirement payments to which a member is  
 25 entitled;

26 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
 27 basis of the actuarial tables adopted by the board. In cases of disability retirement,

1 the options authorized by KRS 61.635 shall be computed by adding ten (10) years  
 2 to the age of the member, unless the member has chosen the Social Security  
 3 adjustment option as provided for in KRS 61.635(8), in which case the member's  
 4 actual age shall be used. No disability retirement option shall be less than the same  
 5 option computed under early retirement;

6 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless  
 7 otherwise provided in KRS 78.510 to 78.852;

8 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
 9 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
 10 limitation year used to determine contribution and benefits limits as set out in 26  
 11 U.S.C. sec. 415;

12 (20) "Agency reporting official" means the person designated by the participating agency  
 13 who shall be responsible for forwarding all employer and employee contributions  
 14 and a record of the contributions to the system and for performing other  
 15 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

16 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean  
 17 all positions that average one hundred (100) or more hours per month, determined  
 18 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
 19 (80) or more hours per month in the case of noncertified employees of school  
 20 boards, determined by using the number of hours actually worked in a calendar or  
 21 school year, unless otherwise specified, except:

22 (a) Seasonal positions, which although temporary in duration, are positions which  
 23 coincide in duration with a particular season or seasons of the year and that  
 24 may recur regularly from year to year, in which case the period of time shall  
 25 not exceed nine (9) months, except for employees of school boards, in which  
 26 case the period of time shall not exceed six (6) months;

27 (b) Emergency positions that are positions that do not exceed thirty (30) working

1 days and are nonrenewable;

2 (c) Temporary, also referred to as probationary, positions that are positions of  
3 employment with a participating agency for a period of time not to exceed  
4 twelve (12) months and not renewable; or

5 (d) Part-time positions that are positions that may be permanent in duration, but  
6 that require less than a calendar or fiscal year average of one hundred (100)  
7 hours of work per month, determined by using the number of months actually  
8 worked within a calendar or fiscal year, in the performance of duty, except in  
9 case of noncertified employees of school boards, the school term average shall  
10 be eighty (80) hours of work per month, determined by using the number of  
11 months actually worked in a calendar or school year, in the performance of  
12 duty;

13 (22) "Alternate participation plan" means a method of participation in the system as  
14 provided for by KRS 78.530(3);

15 (23) "Retired member" means any former member receiving a retirement allowance or  
16 any former member who has on file at the retirement office the necessary  
17 documents for retirement benefits and is no longer contributing to the system;

18 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
19 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
20 pay. The rate shall be certified by the employer;

21 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
22 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
23 in the event of the member's death. As used in KRS 61.702, beneficiary shall not  
24 mean an estate, trust, or trustee;

25 (26) "Recipient" means the retired member, the person or persons designated as  
26 beneficiary by the member and drawing a retirement allowance as a result of the  
27 member's death, or a dependent child drawing a retirement allowance. An alternate



1 payee of a qualified domestic relations order shall ***not*** be considered a recipient,  
 2 ***except***~~only~~ for purposes of KRS ***61.623***~~[61.691]~~;

3 (27) "Person" means a natural person;

4 (28) "School term or year" means the twelve (12) months from July 1 through the  
 5 following June 30;

6 (29) "Retirement office" means the Kentucky Retirement Systems office building in  
 7 Frankfort;

8 (30) "Delayed contribution payment" means an amount paid by an employee for current  
 9 service obtained under KRS 61.552. The amount shall be determined using the  
 10 same formula in KRS 61.5525, except the determination of the actuarial cost for  
 11 classified employees of a school board shall be based on their final compensation,  
 12 and the payment shall not be picked up by the employer. A delayed contribution  
 13 payment shall be deposited to the member's contribution account and considered as  
 14 accumulated contributions of the individual member. In determining payments  
 15 under this subsection, the formula found in this subsection shall prevail over the one  
 16 found in KRS 212.434;

17 (31) "Participating" means an employee is currently earning service credit in the system  
 18 as provided in KRS 78.615;

19 (32) "Month" means a calendar month;~~and~~

20 (33) "Membership date" means the date upon which the member began participating in  
 21 the system as provided in KRS 78.615;

22 ***(34) "Participant" means a member, as defined by subsection (8) of this section, or a***  
 23 ***retired member, as defined by subsection (23) of this section;***

24 ***(35) "Qualified domestic relations order" means any judgment, decree, or order,***  
 25 ***including approval of a property settlement agreement, that:***

26 ***(a) Is issued by a court or administrative agency; and***

27 ***(b) Relates to the provision of child support, alimony payments, or marital***

1 property rights to an alternate payee; and

2 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
 3 participant, who is designated to be paid retirement benefits in a qualified  
 4 domestic relations order.

5 ➔Section 8. KRS 78.545 is amended to read as follows:

6 The following matters shall be administered in the same manner subject to the same  
 7 limitations and requirements as provided for the Kentucky Employees Retirement System  
 8 as follows:

- 9 (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- 10 (2) Statement of member and employer, as provided for by KRS 61.540;
- 11 (3) Beneficiary to be designated by member, change, rights, as provided for by KRS  
 12 61.542;
- 13 (4) Service credit determination, as provided for by KRS 61.545;
- 14 (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- 15 (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- 16 (7) Normal and early retirement eligibility requirements, as provided for by KRS  
 17 61.559;
- 18 (8) Retirement allowance increases as provided for by KRS 61.691;
- 19 (9) Retirement application procedure, effective retirement date, as provided for by KRS  
 20 61.590;
- 21 (10) Disability retirement, conditions, as provided for by KRS 61.600;
- 22 (11) Disability retirement, allowance, as provided for by KRS 61.605;
- 23 (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- 24 (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- 25 (14) Determination of retirement allowance, as provided for by KRS 61.595;
- 26 (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- 27 (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

- 1 (17) Optional retirement plans, as provided for by KRS 61.635;
- 2 (18) Suspension of retirement payments on reemployment, reinstatement, as provided for
- 3 by KRS 61.637;
- 4 (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- 5 (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- 6 (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- 7 (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- 8 (23) Actuarial bases, as provided for by KRS 61.670;
- 9 (24) Employer's administrative duties, as provided for by KRS 61.675;
- 10 (25) Correction of errors in records, as provided for by KRS 61.685;
- 11 (26) Exemptions of retirement allowances, and qualified domestic relations orders, as
- 12 provided for by KRS 61.690;
- 13 (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- 14 (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- 15 (29) Members' account, confidential, as provided for by KRS 61.661;
- 16 (30) Retirement plan for employees determined to be in a hazardous position, as
- 17 provided for by KRS 61.592;
- 18 (31) Maximum disability benefit, as provided for by KRS 61.607;
- 19 (32) Consent of employees to deductions and reciprocal arrangement between systems,
- 20 as provided for by KRS 61.680;
- 21 (33) Employer contributions, as provided for by KRS 61.565;
- 22 (34) Recontribution and delayed contribution payments, purchase of service credit,
- 23 interest, and installment payments, as provided for by KRS 61.552;
- 24 (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- 25 (36) Death benefit, as provided by KRS 61.705;
- 26 (37) Reinstated employee, contributions on creditable compensation, as provided for by
- 27 KRS 61.569;

1 (38) Statement to be made under oath, good faith reliance, as provided for in KRS  
2 61.699;

3 (39) Disability procedure for members in hazardous positions as provided for in KRS  
4 16.582;

5 (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;

6 (41) Death or disability from a duty-related injury as provided in KRS 61.621;

7 (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525; and

8 (43) Payment of small accounts upon death of member, retiree, or recipient without  
9 formal administration of the estate as provided in KRS 61.703.

10 ➔Section 9. KRS 161.220 is amended to read as follows:

11 As used in KRS 161.220 to 161.716 and 161.990:

12 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to  
13 161.716 and 161.990 for payment of allowances to members;

14 (2) "Retirement allowance" means the amount annually payable during the course of his  
15 natural life to a member who has been retired by reason of service;

16 (3) "Disability allowance" means the amount annually payable to a member retired by  
17 reason of disability;

18 (4) "Member" means the commissioner of education, deputy commissioners, associate  
19 commissioners, and all division directors in the State Department of Education, and  
20 any full-time teacher or professional occupying a position requiring certification or  
21 graduation from a four (4) year college or university, as a condition of employment,  
22 and who is employed by public boards, institutions, or agencies as follows:

23 (a) Local boards of education;

24 (b) Eastern Kentucky University, Kentucky State University, Morehead State  
25 University, Murray State University, Western Kentucky University, and any  
26 community colleges established under the control of these universities;

27 (c) State-operated secondary area vocational education or area technology centers,

- 1 Kentucky School for the Blind, and Kentucky School for the Deaf;
- 2 (d) The Education Professional Standards Board, other public education agencies  
3 as created by the General Assembly, and those members of the administrative  
4 staff of the Teachers' Retirement System of the State of Kentucky whom the  
5 board of trustees may designate by administrative regulation;
- 6 (e) Regional cooperative organizations formed by local boards of education or  
7 other public educational institutions listed in this subsection, for the purpose  
8 of providing educational services to the participating organizations;
- 9 (f) All full-time members of the staffs of the Kentucky Association of School  
10 Administrators, Kentucky Education Association, Kentucky Vocational  
11 Association, Kentucky High School Athletic Association, Kentucky Academic  
12 Association, and the Kentucky School Boards Association who were members  
13 of the Kentucky Teachers' Retirement System or were qualified for a position  
14 covered by the system at the time of employment by the association in the  
15 event that the board of directors of the respective association petitions to be  
16 included. The board of trustees of the Kentucky Teachers' Retirement System  
17 may designate by resolution whether part-time employees of the petitioning  
18 association are to be included. The state shall make no contributions on  
19 account of these employees, either full-time or part-time. The association shall  
20 make the employer's contributions, including any contribution that is specified  
21 under KRS 161.550. The provisions of this paragraph shall be applicable to  
22 persons in the employ of the associations on or subsequent to July 1, 1972;
- 23 (g) Employees of the Council on Postsecondary Education who were employees  
24 of the Department for Adult Education and Literacy and who were members  
25 of the Kentucky Teachers' Retirement System at the time the department was  
26 transferred to the council pursuant to Executive Order 2003-600;
- 27 (h) The Office of Career and Technical Education, except that the executive

1 director shall not be a member;

2 (i) The Office of Vocational Rehabilitation;

3 (j) The Kentucky Educational Collaborative for State Agency Children;

4 (k) The Governor's Scholars Program;

5 (l) Any person who is retired for service from the retirement system and is  
6 reemployed by an employer identified in this subsection in a position that the  
7 board of trustees deems to be a member;

8 (m) Employees of the former Cabinet for Workforce Development who are  
9 transferred to the Kentucky Community and Technical College System and  
10 who occupy positions covered by the Kentucky Teachers' Retirement System  
11 shall remain in the Teachers' Retirement System. New employees occupying  
12 these positions, as well as newly created positions qualifying for Teachers'  
13 Retirement System coverage that would have previously been included in the  
14 former Cabinet for Workforce Development, shall be members of the  
15 Teachers' Retirement System;

16 (n) Effective January 1, 1998, employees of state community colleges who are  
17 transferred to the Kentucky Community and Technical College System shall  
18 continue to participate in federal old age, survivors, disability, and hospital  
19 insurance, and a retirement plan other than the Kentucky Teachers' Retirement  
20 System offered by Kentucky Community and Technical College System. New  
21 employees occupying positions in the Kentucky Community and Technical  
22 College System as referenced in KRS 164.5807(5) that would not have  
23 previously been included in the former Cabinet for Workforce Development,  
24 shall participate in federal old age, survivors, disability, and hospital insurance  
25 and have a choice at the time of employment of participating in a retirement  
26 plan provided by the Kentucky Community and Technical College System,  
27 including participation in the Kentucky Teachers' Retirement System, on the

1 same basis as faculty of the state universities as provided in KRS 161.540 and  
2 161.620;

3 (o) Employees of the Office of General Counsel, the Office of Budget and  
4 Administrative Services, and the Office of Quality and Human Resources  
5 within the Office of the Secretary of the former Cabinet for Workforce  
6 Development and the commissioners of the former Department for Adult  
7 Education and Literacy and the former Department for Technical Education  
8 who were contributing to the Kentucky Teachers' Retirement System as of  
9 July 15, 2000; and

10 (p) Employees of the Kentucky Department of Education only who are graduates  
11 of a four (4) year college or university, notwithstanding a substitution clause  
12 within a job classification, and who are serving in a professional position as  
13 defined by the department.

14 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,  
15 and became a member of the retirement system created by 1938 (1st Extra. Sess.)  
16 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year  
17 after that date, and any teacher who was a member of a local teacher retirement  
18 system in the public elementary or secondary schools of the state on or before July  
19 1, 1940, and continued to be a member of the system until he, with the membership  
20 of the local retirement system, became a member of the state Teachers' Retirement  
21 System or who becomes a member under the provisions of KRS 161.470(4);

22 (6) "New teacher" means any member not a present teacher;

23 (7) "Prior service" means the number of years during which the member was a teacher  
24 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior  
25 service shall be allowed or credited to any teacher;

26 (8) "Subsequent service" means the number of years during which the teacher is a  
27 member of the Teachers' Retirement System after July 1, 1941;

1 (9) "Final average salary" means the average of the five (5) highest annual salaries  
 2 which the member has received for service in a covered position and on which the  
 3 member has made contributions, or on which the public board, institution, or  
 4 agency has picked-up member contributions pursuant to KRS 161.540(2), or the  
 5 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),  
 6 which shall include picked-up member contributions. Additionally, the board of  
 7 trustees may approve a final average salary based upon the average of the three (3)  
 8 highest salaries for members who are at least fifty-five (55) years of age and have a  
 9 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of  
 10 the five (5) or three (3) highest annual salaries used to calculate the final average  
 11 salary was paid within the three (3) years immediately prior to the date of the  
 12 member's retirement, the amount of salary to be included for each of those three (3)  
 13 years for the purpose of calculating the final average salary shall be limited to the  
 14 lesser of:

- 15 (a) The member's actual salary; or
- 16 (b) The member's annual salary that was used for retirement purposes during each  
 17 of the prior three (3) years, plus a percentage increase equal to the percentage  
 18 increase received by all other members employed by the public board,  
 19 institution, or agency, or for members of school districts, the highest  
 20 percentage increase received by members on any one (1) rank and step of the  
 21 salary schedule of the school district. The increase shall be computed on the  
 22 salary that was used for retirement purposes.

23 This limitation shall not apply if the member receives an increase in salary in a  
 24 percentage exceeding that received by the other members, and this increase was  
 25 accompanied by a corresponding change in position or in length of employment.

26 This limitation shall also not apply to the payment to a member for accrued annual  
 27 leave if the individual becomes a member before July 1, 2008, or accrued sick leave



1 which is authorized by statute and which shall be included as part of a retiring  
2 member's annual compensation for the member's last year of active service;

- 3 (10) "Annual compensation" means the total salary received by a member as  
4 compensation for all services performed in employment covered by the retirement  
5 system during a fiscal year. Annual compensation shall not include payment for any  
6 benefit or salary adjustments made by the public board, institution, or agency to the  
7 member or on behalf of the member which is not available as a benefit or salary  
8 adjustment to other members employed by that public board, institution, or agency.  
9 Annual compensation shall not include the salary supplement received by a member  
10 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no  
11 circumstances shall annual compensation include compensation that is earned by a  
12 member while on assignment to an organization or agency that is not a public board,  
13 institution, or agency listed in subsection (4) of this section. In the event that federal  
14 law requires that a member continue membership in the retirement system even  
15 though the member is on assignment to an organization or agency that is not a  
16 public board, institution, or agency listed in subsection (4) of this section, the  
17 member's annual compensation for retirement purposes shall be deemed to be the  
18 annual compensation, as limited by subsection (9) of this section, last earned by the  
19 member while still employed solely by and providing services directly to a public  
20 board, institution, or agency listed in subsection (4) of this section. The board of  
21 trustees shall determine if any benefit or salary adjustment qualifies as annual  
22 compensation. For an individual who becomes a member on or after July 1, 2008,  
23 annual compensation shall not include lump-sum payments upon termination of  
24 employment for accumulated annual or compensatory leave;
- 25 (11) "Age of member" means the age attained on the first day of the month immediately  
26 following the birthdate of the member. This definition is limited to retirement  
27 eligibility and does not apply to tenure of members;

- 1 (12) "Employ," and derivatives thereof, means relationships under which an individual  
2 provides services to an employer as an employee, as an independent contractor, as  
3 an employee of a third party, or under any other arrangement as long as the services  
4 provided to the employer are provided in a position that would otherwise be covered  
5 by the Kentucky Teachers' Retirement System and as long as the services are being  
6 provided to a public board, institution, or agency listed in subsection (4) of this  
7 section;
- 8 (13) "Regular interest" means interest at three percent (3%) per annum, except for an  
9 individual who becomes a member on or after July 1, 2008, "regular interest" means  
10 interest at two and one-half percent (2.5%) per annum for purposes of crediting  
11 interest to the teacher savings account or any other contributions made by the  
12 employee that are refundable to the employee upon termination of employment;
- 13 (14) "Accumulated contributions" means the contributions of a member to the teachers'  
14 savings fund, including picked-up member contributions as described in KRS  
15 161.540(2), plus accrued regular interest;
- 16 (15) "Annuitant" means a person who receives a retirement allowance or a disability  
17 allowance;
- 18 (16) "Local retirement system" means any teacher retirement or annuity system created  
19 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 20 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The  
21 retirement plan year is concurrent with this fiscal year. A contract for a member  
22 employed by a local board of education may not exceed two hundred sixty-one  
23 (261) days in the fiscal year;
- 24 (18) "Public schools" means the schools and other institutions mentioned in subsection  
25 (4) of this section;
- 26 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was  
27 receiving, at the time of death of the member, at least one-half (1/2) of the support

1 from the member for maintenance, including board, lodging, medical care, and  
2 related costs;

3 (20) "Active contributing member" means a member currently making contributions to  
4 the Teachers' Retirement System, who made contributions in the next preceding  
5 fiscal year, for whom picked-up member contributions are currently being made, or  
6 for whom these contributions were made in the next preceding fiscal year;

7 (21) "Full-time" means employment in a position that requires services on a continuing  
8 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year  
9 basis;

10 (22) "Full actuarial cost," when used to determine the payment that a member must pay  
11 for service credit means the actuarial value of all costs associated with the  
12 enhancement of a member's benefits or eligibility for benefit enhancements,  
13 including health insurance supplement payments made by the retirement system.  
14 The actuary for the retirement system shall determine the full actuarial value costs  
15 and actuarial cost factor tables as provided in KRS 161.400; and

16 (23) "Last annual compensation" means the annual compensation, as defined by  
17 subsection (10) of this section and as limited by subsection (9) of this section,  
18 earned by the member during the most recent period of contributing service, either  
19 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)  
20 full year of service credit in the Kentucky Teachers' Retirement System, and which  
21 compensation is used in calculating the member's initial retirement allowance,  
22 excluding bonuses, retirement incentives, payments for accumulated sick, annual,  
23 personal and compensatory leave, and any other lump-sum payment. For an  
24 individual who becomes a member on or after July 1, 2008, payments for annual or  
25 compensatory leave shall not be included in determining the member's last annual  
26 compensation;

27 **(24) "Participant" means a member, as defined by subsection (4) of this section, or an**

annuitant, as defined by subsection (15) of this section;

(25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; and

(26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order.

➔Section 10. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average

1 salary for each year of service. For individuals who become members of the  
 2 Kentucky Teachers' Retirement System on or after July 1, 2002, and before  
 3 July 1, 2008, except those persons who become members under KRS  
 4 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10)  
 5 full years of service credit, the annual allowance for each year of service shall  
 6 be two and one-half percent (2.5%) of the member's final average salary;

7 (c) The board of trustees may approve for members who initially retire on or after  
 8 July 1, 2004, and who become members before July 1, 2008, except those  
 9 persons who are members under KRS 161.220(4)(b) or (n), a retirement  
 10 allowance of three percent (3%) of the member's final average salary for each  
 11 year of service credit earned in excess of thirty (30) years. This three percent  
 12 (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor  
 13 provided for in paragraph (b) of this subsection for every year or fraction of a  
 14 year of service in excess of thirty (30) years. Upon approval of this three  
 15 percent (3%) retirement factor, the board of trustees may establish conditions  
 16 of eligibility regarding the type of service credit that will qualify for meeting  
 17 the requirements of this subsection. This subsection is optional with the board  
 18 of trustees and shall not be subject to KRS 161.714;

19 (d) For individuals who become members of the Kentucky Teachers' Retirement  
 20 System on or after July 1, 2008, except those persons who become members  
 21 under KRS 161.220(4)(b) or (n), the retirement allowance shall be:

- 22 1. a. One and seven-tenths percent (1.7%) of the member's final average  
 23 salary for each year of service if the member has earned ten (10) or  
 24 less years of service at retirement;
- 25 b. Two percent (2%) of the member's final average salary for each  
 26 year of service if the member has earned greater than ten (10) but  
 27 no more than twenty (20) years of service at retirement;

- 1                   c.    Two and three-tenths percent (2.3%) of the member's final average
- 2                         salary for each year of service if the member has earned greater
- 3                         than twenty (20) but no more than twenty-six (26) years of service
- 4                         at retirement; or
- 5                   d.    Two and one-half percent (2.5%) of the member's final average
- 6                         salary for each year of service if the member has earned greater
- 7                         than twenty-six (26) but no more than thirty (30) years of service at
- 8                         retirement; and
- 9                   2.    Three percent (3%) of the member's final average salary for each year of
- 10                       service earned in excess of thirty (30) years of service at retirement;
- 11           (e)   For individuals who become members of the Kentucky Teachers' Retirement
- 12                   System on or after July 1, 2008, who are members under KRS 161.220(4)(b)
- 13                   or (n), the retirement allowance shall be:
- 14                   1.    One and one-half percent (1.5%) of the member's final average salary for
- 15                       each year of service if the member has earned ten (10) or less years of
- 16                       service at retirement;
- 17                   2.    One and seven-tenths percent (1.7%) of the member's final average
- 18                       salary for each year of service if the member has earned greater than ten
- 19                       (10) but no more than twenty (20) years of service at retirement;
- 20                   3.    One and eighty-five hundredths percent (1.85%) of the member's final
- 21                       average salary for each year of service if the member has earned greater
- 22                       than twenty (20) but less than twenty-seven (27) years of service at
- 23                       retirement; or
- 24                   4.    Two percent (2%) of the member's final average salary for each year of
- 25                       service if the member has earned twenty-seven (27) or more years of
- 26                       service at retirement; and
- 27           (f)   The retirement allowance of a member at retirement, as measured on a life

annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).

(2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection, except the following: ~~This subsection and subsection (4) of this section shall not apply to}~~

(a) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008; or

(b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic

*relations order or any other provision permitted under KRS 161.700.*

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.

(6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding



the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

→Section 11. KRS 161.585 is amended to read as follows:

(1) For purposes of this section, the term "records" shall include retirement estimates, affidavits and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.

1 (2) Each member's account shall be administered in a confidential manner and specific  
 2 data regarding a member shall not be released for publication unless authorized by  
 3 the member; however, the board of trustees may release member account  
 4 information to the employer or to other state and federal agencies as it deems  
 5 necessary or in response to a lawful subpoena or order issued by a court of law.

6 (3) [(2)] Medical records which are included in a member's file maintained by the  
 7 Teachers' Retirement System are confidential and shall not be released unless  
 8 authorized by the member in writing or as otherwise provided by law or in response  
 9 to a lawful subpoena or order issued by a court of law.

10 (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers'  
 11 Retirement System requiring the production of any data, information or  
 12 records, it is sufficient if the employee of the Kentucky Teachers'  
 13 Retirement System charged with the responsibility of being custodian of the  
 14 original, or his or her designated staff, delivers within five (5) working days  
 15 by certified mail or by personal delivery to the person specified in the  
 16 subpoena either of the following:

- 17 1. Legible and durable copies of records certified by the employee or  
 18 designated staff; or
- 19 2. An affidavit stating the information required by the subpoena.

20 (b) The production of records or an affidavit shall be in lieu of any personal  
 21 testimony of any employee of the Kentucky Teachers' Retirement System  
 22 unless, after the production of records or affidavit, a separate subpoena is  
 23 served upon the retirement system specifically directing the testimony of an  
 24 employee of the retirement system. When a subpoena is served on any  
 25 employee of the retirement system requiring the employee to give testimony  
 26 or produce records for any purpose, in the absence of a court order  
 27 requiring the testimony of or production of documents by a specific

1           employee, the system may designate an employee to give testimony or  
 2           produce documents upon the matter referred to in the subpoena.

3   (5) The certification shall be signed before a notary public by the employee and shall  
 4           include the full name of the member, the member identification number assigned  
 5           to the member by the retirement system, and a legend substantially to the  
 6           following effect: "The records are true and complete reproductions of the  
 7           original, microfiched, or electronically stored records which are housed in the  
 8           retirement system's office. This certification is given in lieu of the undersigned's  
 9           personal appearance."

10   (6) When an affidavit or copies of records are personally delivered, a receipt shall be  
 11           presented to the person receiving the records for his or her signature and shall be  
 12           immediately signed and returned to the person delivering the records. When an  
 13           affidavit or copies of records are sent via certified mail, the receipt used by the  
 14           postal authorities shall be sufficient to prove receipt of the affidavit or copies of  
 15           records.

16   (7) When the affidavit or copies of records are delivered to a party for use in  
 17           deposition they shall, after termination of the deposition, be delivered personally  
 18           or by certified mail to the clerk of the court or other body before which the action  
 19           or proceeding is pending.

20   (8) Upon completion of delivery by the retirement system of copies of records by their  
 21           deposit in the mail or by their personal delivery to the requesting party, the  
 22           retirement system shall cease to have any responsibility or liability for the records  
 23           and their continued maintenance in a confidential manner.

24   (9) Records of the Kentucky Teachers' Retirement System that are susceptible to  
 25           reproduction may be proved as to foundation, identity, and authenticity without  
 26           preliminary testimony, by use of legible and durable copies, certified in  
 27           accordance with the provisions of this section.

1 **(10) The provisions of this section shall not be construed to prohibit the Kentucky**  
 2 **Teachers' Retirement System from asserting any exemption, exception or relief**  
 3 **provided under the Kentucky Rules of Civil Procedure or other applicable law.**

4 ➔ Section 12. KRS 161.700 is amended to read as follows:

5 (1) **Except as otherwise provided by this section,** the right of a member to a retirement  
 6 allowance and to the return of contributions, any benefit or right accrued or accruing  
 7 to any person under **KRS 161.220 to 161.716**~~[the retirement system]~~, and the money  
 8 in the various funds **established pursuant to KRS 161.220 to 161.716**~~[of the~~  
 9 ~~retirement system]~~ are **hereby** exempt from any state or municipal tax, **and**  
 10 **shall**~~[are]~~ not **be** subject to execution, garnishment, attachment, or other process,  
 11 and **shall not be assigned**~~[are unassignable except as provided in this chapter, and~~  
 12 ~~except for court or administratively ordered current child support, owed child~~  
 13 ~~support, or to be owed child support]~~.

14 **(2) Notwithstanding subsection (1) of this section,**~~[Except]~~ retirement benefits accrued  
 15 or accruing to any person under this retirement system on or after January 1, 1998,  
 16 shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS  
 17 141.010 and 141.0215.

18 **(3)(2)** Retirement allowance, disability allowance, accumulated contributions, or any  
 19 other benefit under the retirement system shall not be classified as marital property  
 20 pursuant to KRS 403.190(1), **except to the extent permitted under KRS 403.190(4).**  
 21 Retirement allowance, disability allowance, accumulated contributions, or any other  
 22 benefit under the retirement system shall not be considered as an economic  
 23 circumstance during the division of marital property in an action for dissolution of  
 24 marriage pursuant to KRS 403.190(1)(d), **except to the extent permitted under KRS**  
 25 **403.190(4).**

26 **(4) Qualified domestic relations orders issued by a court or administrative agency**  
 27 **shall be honored by the retirement system if:**

- 1       (a) The benefits payable pursuant to the order meet the requirements of a  
2       qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The  
3       retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)  
4       in administering qualified domestic relations orders;
- 5       (b) The order meets the requirements established by the retirement system and  
6       by subsections (4) to (12) of this section. The board of trustees of the  
7       retirement system shall establish the requirements, procedures, and forms  
8       necessary for the administration of qualified domestic relations order by  
9       promulgation of administrative regulations in accordance with KRS  
10       Chapter 13A; and
- 11       (c) The order is on the form established by the retirement system pursuant to  
12       the retirement system's authority provided under paragraph (b) of this  
13       subsection.
- 14       (5) A qualified domestic relations order shall not:
- 15       (a) Require the retirement system to take any action not authorized under state  
16       or federal law;
- 17       (b) Require the retirement system to provide any benefit, allowance, or other  
18       payment not authorized under state or federal law;
- 19       (c) Grant or be construed to grant the alternate payee any separate right, title,  
20       or interest in or to any retirement benefit other than to receive payments  
21       from the participant's account in accordance with the administrative  
22       regulations promulgated by the system and as provided by subsections (4) to  
23       (12) of this section; or
- 24       (d) Grant any separate interest to any person other than the participant.
- 25       (6) Any qualified domestic relations order submitted to the retirement system shall  
26       specify the dollar amount or percentage amount of the participant's benefit to be  
27       paid to the alternate payee. In calculating the amount to be paid to the alternate

payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by the board of trustees.

(7) If the qualified domestic relations order meets the requirements established by the system and by subsections (4) to (12) of this section, payments to the alternate payee shall be distributed under the following conditions:

(a) If the participant is retired and is receiving a monthly benefit, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (4) to (12) of this section; or

(b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of contributions as provided by KRS 161.470(6).

(8) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:

(a) The death of the participant;

(b) The death of the alternate payee; or

(c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.

(9) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.

(10) The cost of living adjustment provided to the participant pursuant to KRS 161.620 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:

(a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

(b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:

1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.

(11) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board

1 of trustees of the retirement system. The qualified domestic relations order shall  
2 specify whether the fees and expenses provided by this subsection shall be paid:

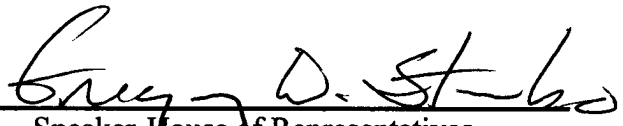
3 (a) Solely by the participant;

4 (b) Solely by the alternate payee; or

5 (c) Equally shared by the participant and alternate payee.

6 (12) The retirement system shall honor qualified domestic relations order issued prior  
7 to the effective date of this Act for prospective benefit payments if the order or an  
8 amended version of the order meets the requirements established by this section  
9 and the administrative regulations promulgated by the retirement system. The  
10 order shall not apply to benefit payments issued by the retirement system prior to  
11 the date the order was approved by the retirement system.



  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_